



# PUBLIC NOTICE

Federal Communications Commission  
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WT Docket No. 00-164  
DA 00-2083

Released: September 20, 2000

## PUBLIC COMMENT INVITED

### COMMISSION SEEKS COMMENT ON PETITION FOR A DECLARATORY RULING REGARDING WHETHER CERTAIN CMRS PRACTICES VIOLATE THE COMMUNICATIONS ACT

**Comment Date: October 20, 2000    Reply Comment Date: November 6, 2000**

In this Public Notice, the Wireless Telecommunications Bureau seeks comment on a petition for declaratory ruling filed on February 2, 2000 by the plaintiffs in the *White v. GTE* class action lawsuit.<sup>1</sup> The White petition requests a declaratory ruling on the issues contained in count I of the Third Amended Complaint of the GTE class action. GTE filed an opposition to the White petition on February 10, 2000. On March 3, 2000, petitioners submitted a reply to GTE's opposition.

The issues presented by the White petition are focused on whether the following practices are unjust and unreasonable practices under section 201(b) of the Communications Act: (1) charging customers for dead time; (2) charging for unanswered or unconnected calls; (3) measuring the time of a call from the time the "send" button (or other similar button) is pushed; and, (4) the practice of rounding up any of the foregoing types of charges to the next minute. In light of the Commission decisions in response to the Southwestern Bell Mobile Systems petition<sup>2</sup> and the WCA petition,<sup>3</sup> comment is requested on these issues. Interested parties may file

<sup>1</sup> *White v. GTE*, No. 97-1859-CIV-T-26C (M.D. Fla. filed Oct. 29, 1998) (GTE class action).

<sup>2</sup> Southwestern Bell Mobile Systems, Inc. Petition for a Declaratory Ruling Regarding the Just and Reasonable Nature of, and State Challenges to, Rates Charged by CMRS Providers when Charging for Incoming Calls and Charging for Calls in Whole-Minute Increments, FCC 99-365, *Memorandum Opinion and Order*, 14 FCC Rcd 19898 (1999).

<sup>3</sup> Wireless Consumers Alliance, Petition for a Declaratory Ruling Concerning Whether the Provisions of the Communications Act of 1934, as Amended, or the Jurisdiction of the Federal Communications Commission Thereunder, Serve to Preempt State Courts from Awarding Monetary Relief Against Commercial Mobile Radio Service (CMRS) Providers (a) for Violating State Consumer Protection Laws Prohibiting False Advertising and Other Fraudulent Business Practices, and/or (b) in the Context of

comments and reply comments in accordance with the procedures outlined below.

This matter shall be treated as a "permit-but-disclose" proceeding in accordance with the Commission's *ex parte* rules. 47 C.F.R. §§ 1.1200(a), 1.1206. Persons making oral *ex parte* presentations are reminded that memoranda summarizing the presentations must contain summaries of the substance of the presentations and not merely a listing of the subjects discussed. More than a one or two sentence description of the views and arguments presented is generally required. See 47 C.F.R. § 1.1206(b). Other rules pertaining to oral and written *ex parte* presentations in permit-but-disclose proceedings are set forth in section 1.1206(b) of the Commission's rules, 47 C.F.R. § 1.1206(b).

Comments on the White petition must be filed by **October 20, 2000**, and reply comments by **November 6, 2000**. Parties should reference WT Docket No. 00-164 in their comments. Parties may obtain copies of the White petition and subsequent filings at the FCC website, <<http://www.fcc.gov/e-file/ecfs.html>>. The documents are available for public inspection and copying in the Reference Center, Room CY A-257, 445 12th St., S.W., Washington, DC 20554. Copies of the documents are also available from ITS, at 1231 20th Street, NW, Washington, DC 20036, or by calling (202) 857-3800.

Comments may be filed using the Commission's Electronic Comment Filing System (ECFS) or by filing paper copies. Comments filed through the ECFS can be sent as an electronic file via the Internet to <<http://www.fcc.gov/e-file/ecfs.html>>. In completing the transmittal screen, commenters should include their full name, Postal Service mailing address, and the applicable docket or rulemaking number. Parties may also submit an electronic comment by Internet e-mail. To get filing instructions for e-mail comments, commenters should send an e-mail to [ecfs@fcc.gov](mailto:ecfs@fcc.gov), including "get form <your e-mail address>" in the body of the message. A sample form and directions will be sent in reply.

Interested parties who choose to file by paper must file an original and four copies of their comments with the Office of the Secretary, Federal Communications Commission, 445 Twelfth St., S.W., Room TW-A325, Washington, D.C. 20554. In addition, parties should send two copies to Susan Kimmel, Policy Division, Wireless Telecommunications Bureau, Federal Communications Commission, 445 Twelfth St., S.W., Washington, D.C. 20554, and one copy to ITS, at 1231 20th Street, N.W., Washington, D.C. 20036.

FOR FURTHER INFORMATION CONTACT: Susan Kimmel or Mary Woytek at (202) 418-1310. The address is: Policy Division, Wireless Telecommunications Bureau, Federal Communications Commission, 445 Twelfth St., S.W., Washington, D.C. 20554. The fax number is: (202) 418-8188. The TTY number is: (202) 418-0484.

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